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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,705	09/27/2001	Kiyohito Yoshihara	011153	1626
23850	7590	04/15/2005	EXAMINER	
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP 1725 K STREET, NW SUITE 1000 WASHINGTON, DC 20006			HAMZA, FARUK	
		ART UNIT		PAPER NUMBER
		2155		

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/963,705	YOSHIHARA ET AL.	
	Examiner Faruk Hamza	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 September 2001.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) \_\_\_\_\_ is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 27 September 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  |   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
|   | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

1. This action is responsive to the application filed on September 27, 2001. Claims 1-11 are now pending.

### ***Specification***

2. The disclosure is objected to because of the following informalities: There is no space in between several words. Appropriate correction is required.
3. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

***Claim Objections***

4. Claims 5-9 are objected to because of the following informalities: There is no space in between several words. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 1 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. Claim 1 recites the limitation "the managed device" in line 5. There is insufficient antecedent basis for this limitation in the claim.
8. Claim 5 recites the limitation "the management device" in line 22. There is insufficient antecedent basis for this limitation in the claim.
9. Claim 5 recites the limitation "the policy adjustment information" in line 8. There is insufficient antecedent basis for this limitation in the claim.
10. Claim 5 recites the limitation "the evaluation result" in line 9. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

12. Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Bearden et al. (U.S. Patent Number 6,871,233) hereinafter referred as Bearden.

13. Bearden has disclosed:

- <Claim 1>

A management device in a policy based management system for managing policy information by means of the management device, and distributing the policy information to the managed device, thereby controlling a traffic, said management device comprising:

a policy information input means for inputting policy information; (Column 4, lines 56-63)

a policy evaluation information input means for inputting evaluation information for evaluating an enforcement effect of a policy in the managed device; (Column 4, lines 56-63)

a policy adjustment information input means for inputting adjustment information for dynamically adjusting, a policy operated by the managed device; and (Column 5, lines 9-18)

a distribution means for distributing the input policy information, policy evaluation information, and policy adjustment information to the managed device. (Fig. 3, Column 1, lines 54-67; Column 2, lines 1-7)

- <Claim 2>

A management device in a policy based management system as claimed in claim 1, wherein said policy evaluation information contains information for judging whether or not a policy assigned to each traffic conforms to the traffic, and said policy adjustment information contains information for ensuring that a

policy judged as nonconformance conforms to said traffic. (Column 5, lines 19-45)

- <Claim 3>

A management device in a policy based management system as claimed in claim 2, wherein said policy evaluation information contains information for judging whether or not a policy under operation is insufficient in resources relevant to an actual traffic, and said policy adjustment information contains information for reducing resource insufficiency of a policy. (Column 1, lines 65-67; Column 2, lines 1-7)

- <Claim 4>

A management device in a policy based management system as claimed in claim 2, wherein said policy evaluation information contains information for judging whether or not a policy under operation is insufficient in resources relevant to an actual traffic, and said policy adjustment information contains information for reducing resource excess of a policy. (Column 1, lines 65-67; Column 2, lines 1-7)

- <Claim 5>

A managed device in a policy based management system for managing policy information by means of the management device, and distributing the

policy information to the managed device, thereby controlling a traffic, said managed device comprising:

a policy enforcement means for enforcing a policy information distributed from the management device, thereby controlling a traffic; (Fig. 3, Column 1, lines 54-67; Column 2, lines 1-7)

a policy evaluation means for evaluating a policy under operation based on policy evaluation information distributed from the management device; and (Column 5, lines 19-45)

a policy adjustment means for dynamically adjusting a policy under operation based on the policy adjustment information distributed from the management device and the evaluation result obtained by evaluation means. (Column 5, lines 9-18)

- <Claim 6>

A managed device in a policy based management system as claimed in claim 5, wherein said policy evaluation means evaluates whether or not a policy assigned to each traffic conforms to the traffic, and said policy adjustment means ensures that the policy conforms to the traffic based on said evaluation means.

(Column 5, lines 19-45)

- <Claim 7>

A managed device in a policy based management system as claimed in claim 6, wherein said policy adjustment means reduces network resources assigned by a policy evaluated as a resource excess by said evaluation means. (Column 1, lines 65-67; Column 2, lines 1-7)

- <Claim 8>

A managed device in a policy based management system as claimed in claim 6, wherein said policy adjustment means improves a quality of a policy evaluated as resource insufficiency by said evaluation means. (Column 1, lines 65-67; Column 2, lines 1-7)

- <Claim 9>

A managed device in a policy based management system as claimed in claim 5, wherein said policy adjustment means adjusts a policy assigned to each traffic in advance based on the evaluation result obtained by said evaluation means. (Column 5, lines 9-18)

- <Claim 10>

A managed device in a policy based management system as claimed in claim 5, further comprising a notifying means for notifying the policy information after adjusted to at least one of a management device and another managed device. (Column 3, lines 52-59)

- <Claim 11>

A managed device in a policy based management system as claimed in claim 5, where in said policy adjustment means adjusts a policy based on the notification from another managed device. (Column 5, lines 30-44).

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

- Mohaban et al. (U.S. Patent Number 6,463,470) discloses methods and apparatus for storing policies for policy-based management of quality of service treatments of network data traffic flows.
- Eichert et al. (U.S. Patent Number 6,393,474) discloses Dynamic policy management apparatus and method using active network device.
- Krishna et al. (U.S. Patent Number 6,718,379) discloses a centralized policy management system.
- Putzolu et al. (U.S. Number 6,611,864) disclose Policy based network management architecture.
- Banginwar (U.S. Patent Number 6,611,863) discloses a technique for automatically identifying and assigning devices in a policy based management system.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faruk Hamza whose telephone number is 571-272-7969. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached at 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll -free).

Faruk Hamza

Patent Examiner

Group Art Unit 2155

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SUPERVISORY PATENT EXAMINER